

enrollment and a parent (borrowing for the same student) may not receive loans under both part D of the Act and part B of the Act for the same period of enrollment;

(9) Provide for the implementation of a quality assurance system, as established by the Secretary and developed in consultation with the school, to ensure that the school is complying with program requirements and meeting program objectives;

(10) Provide that the school will not charge any fees of any kind, however described, to student or parent borrowers for origination activities or the provision of any information necessary for a student or parent to receive a loan under part D of the Act or any benefits associated with such a loan; and

(11) Comply with other provisions that the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of part D of the Act.

(c) *Origination.* (1) If a school or consortium originates loans in the Direct Loan Program, it shall enter into a supplemental agreement that—

(i) Provides that the school or consortium will originate loans to eligible students and parents in accordance with part D of the Act; and

(ii) Provides that the note or evidence of obligation on the loan is the property of the Secretary.

(2) The chief executive officer of the school shall sign the supplemental agreement on behalf of the school.

(Authority: 20 U.S.C. 1087a *et seq.*, 1094)

[59 FR 61690, Dec. 1, 1994, as amended at 64 FR 58970, Nov. 1, 1999]

**§ 685.301 Origination of a loan by a Direct Loan Program school.**

(a) *Determining eligibility and loan amount.* (1) A school participating in the Direct Loan Program shall ensure that any information it provides to the Secretary in connection with loan origination is complete and accurate. A school shall originate a Direct Loan while the student meets the borrower eligibility requirements of § 685.200. Except as provided in 34 CFR part 668, subpart E, a school may rely in good faith upon statements made in the application by the student.

(2) A school shall provide to the Secretary borrower information that includes but is not limited to—

(i) The borrower's eligibility for a loan, as determined in accordance with § 685.200 and § 685.203;

(ii) The student's loan amount; and

(iii) The anticipated and actual disbursement date or dates and disbursement amounts of the loan proceeds.

(3) A school may not originate a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan, or a combination of loans, for an amount that—

(i) The school has reason to know would result in the borrower exceeding the annual or maximum loan amounts in § 685.203; or

(ii) Exceeds the student's estimated cost of attendance less—

(A) The student's estimated financial assistance for that period; and

(B) In the case of a Direct Subsidized Loan, the borrower's expected family contribution for that period.

(4)(i) A school determines a Direct Subsidized or Direct Unsubsidized Loan amount in accordance with § 685.203.

(ii) When prorating a loan amount for a student enrolled in a program of study with less than a full academic year remaining, the school need not recalculate the amount of the loan if the number of hours for which an eligible student is enrolled changes after the school originates the loan.

(5) The date of loan origination is the date a school creates the electronic loan origination record.

(6) If a student has received a determination of need for a Direct Subsidized Loan that is \$200 or less, a school may choose not to originate a Direct Subsidized Loan for that student and to include the amount as part of a Direct Unsubsidized Loan.

(7) A school may refuse to originate a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan or may reduce the borrower's determination of need for the loan if the reason for that action is documented and provided to the borrower in writing, and if—

(i) The determination is made on a case-by-case basis;

(ii) The documentation supporting the determination is retained in the student's file; and

(iii) The school does not engage in any pattern or practice that results in a denial of a borrower's access to Direct Loans because of the borrower's race, gender, color, religion, national origin, age, disability status, or income.

(8) A school may not assess a fee for the completion or certification of any Direct Loan Program forms or information or for the origination of a Direct Loan.

(9)(i) The minimum period of enrollment for which a school may originate a Direct Loan is—

(A) At a school that measures academic progress in credit hours and uses a semester, trimester, or quarter system, a single academic term (e.g., a semester or quarter); or

(B) At a school that measures academic progress in clock hours, or measures academic progress in credit hours but does not use a semester, trimester, or quarter system, the lesser of—

(1) The length of the student's program at the school; or

(2) The academic year as defined by the school in accordance with 34 CFR 668.3.

(ii) The maximum period for which a school may originate a Direct Loan is—

(A) Generally an academic year, as defined by 34 CFR 668.3, except that a school may use a longer period of time, not to exceed 12 months, corresponding to the period to which the school applies the annual loan limits under § 685.203; or

(B) For a defaulted borrower who has regained eligibility, the academic year in which the borrower regained eligibility.

(b) *Determining disbursement dates and amounts.* (1) Before disbursing a loan, a school that originates loans shall determine that all information required by the loan application and promissory note has been provided by the borrower and, if applicable, the student.

(2) Unless paragraph (b)(5) or (6) of this section applies, an institution must disburse the loan proceeds on a payment period basis in accordance with 34 CFR 668.164(b).

(3) Unless paragraph (b)(4), (5), (6), or (8) of this section applies—

(i) If a loan period is more than one payment period, the school must disburse loan proceeds at least once in each payment period; and

(ii) If a loan period is one payment period, the school must make at least two disbursements during that payment period. The school may not make the second disbursement until the calendar midpoint between the first and last scheduled days of class of the loan period.

(4)(i) If one or more payment periods have elapsed before a school makes a disbursement, the school may include in the disbursement loan proceeds for completed payment periods; or

(ii) If the loan period is equal to one payment period and more than one-half of it has elapsed, the school may include in the disbursement loan proceeds for the entire payment period.

(5)(i) If a school measures academic progress in an educational program in credit hours and either does not use terms or does not use terms that are substantially equal in length for a loan period, the school may not make a second disbursement until the later of—

(A) The calendar midpoint between the first and last scheduled days of class of the loan period; or

(B) The date, as determined by the school, that the student has completed half of the academic coursework in the loan period.

(ii) For purposes of this paragraph, terms in a loan period are substantially equal in length if no term in the loan period is more than two weeks longer than any other term in that loan period.

(6) If an educational program measures academic progress in clock hours, the school may not make a second disbursement until the later of—

(i) The calendar midpoint between the first and last scheduled days of class of the loan period; or

(ii) The date, as determined by the institution, that the student has completed half of the clock hours in the loan period.

(7) The school must disburse loan proceeds in substantially equal installments, and no installment may exceed one-half of the loan.

(8)(i) A school is not required to make more than one disbursement if—

(A)(1) The loan period is not more than one semester, one trimester, one quarter, or, for non term-based schools or schools with non-standard terms, 4 months; and

(2) The school has a cohort default rate, calculated under subpart M of 34 CFR part 668 of less than 10 percent for each of the three most recent fiscal years for which data are available;

(B) The school is an eligible home institution originating a loan to cover the cost of attendance in a study abroad program and has a cohort default rate, calculated under subpart M of 34 part 668, of less than 5 percent for the single most recent fiscal year for which data are available; or

(C) The school is not in a State.

(ii) Paragraph (b)(8)(i)(A) of this section does not apply to any loans originated by the school beginning—

(A) 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in that paragraph; or

(B) October 1, 2002.

(iii) Paragraph (b)(8)(i)(B) of this section does not apply to any loans originated by the school beginning 30 days after the date the school receives notification from the Secretary of a cohort default rate, calculated under subpart M of 34 CFR part 668, that causes the school to no longer meet the qualifications outlined in that paragraph.

(c) *Promissory note handling.* (1) The Secretary provides promissory notes for use in the Direct Loan Program. A school may not modify, or make any additions to, the promissory note without the Secretary's prior written approval.

(2) A school that originates a loan must ensure that the loan is supported by a completed promissory note as proof of the borrower's indebtedness.

(d) *Reporting to the Secretary.* (1) A school that participates under school origination option 2 must submit the promissory note, loan origination record, and initial disbursement record for a loan to the Secretary no later than 30 days following the date of the initial disbursement. The school must submit subsequent disbursement

records, including adjustment and cancellation records, to the Secretary no later than 30 days following the date the disbursement, adjustment, or cancellation is made.

(2) A school that participates under school origination option 1 or standard origination must submit the initial disbursement record for a loan to the Secretary no later than 30 days following the date of the initial disbursement. The school must submit subsequent disbursement records, including adjustment and cancellation records, to the Secretary no later than 30 days following the date the disbursement, adjustment, or cancellation is made.

(Approved by the Office of Management and Budget under control number 1845-0021)

(Authority: 20 U.S.C. 1087a *et seq.*)

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## § 685.302 [Reserved]

## § 685.303 Processing loan proceeds.

(a) *Purpose.* This section establishes rules governing a school's processing of a borrower's Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan proceeds. The school shall also comply with any rules for processing loan proceeds contained in 34 CFR part 668.

(b) *General*—(1)(i) *A school that initiates the drawdown of funds.* A school may not disburse loan proceeds to a borrower unless the school has obtained an executed, legally enforceable promissory note from the borrower.

(ii) *A school that does not initiate the drawdown of funds.* A school may disburse loan proceeds only to a borrower for whom the school has received funds from the Secretary.

(2)(i) Except in the case of a late disbursement under paragraph (d) of this section, or as provided in paragraph (b)(2)(iii) of this section, a school may disburse loan proceeds only to a student, or a parent in the case of a PLUS